

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI**

**IN RE:
SHORT FORK DEVELOPMENT, LLC**

**SUBCHAPTER V
CASE NO. 23-13660-JDW**

**GUARANTY BANK & TRUST COMPANY’S MOTION TO LIFT THE AUTOMATIC
STAY AND FOR ABANDONMENT**

Guaranty Bank & Trust Company (“Guaranty Bank”) for its second motion to lift automatic stay and for abandonment would state as follows:

1. On November 30, 2023, the date of Guaranty Bank’s foreclosure on its deeds of trust on the properties owned by Short Fork Development, LLC (“Short Fork”) and its related entities, Short Fork Farms, LLC, (“Short Fork Farms”) Hendrix Farming, LLC, (“Hendrix Farming”) and the Guy B. Hendrix, Sr., Revocable Trust, all the entities filed for relief pursuant to Chapter 11 in this Court. This case was assigned Case No. 23-13660-JDW. Robert A. Byrd was appointed the subchapter V Trustee in this case, as well as in the cases of Short Fork Farms, and Hendrix Farming.

2. The Debtor, Short Fork Development, has only one asset, a combination of developed and undeveloped real property located in Desoto County, Mississippi.

3. Guaranty Bank is a secured creditor in this proceeding. Guaranty Bank has a perfected security interest in the all the real property of the debtor, Short Fork Development, LLC (“Debtor”). Guaranty Bank has filed a proof of claim with respect to this property, Claim #2, in the amount of \$6,13,052.82. A true and correct copy of Claim #2 is attached hereto as Exhibit A and incorporated herein by reference.¹ The real property is more particularly described as follows:

¹ Guaranty Bank also filed a claim, Claim #3, that relates to the letters of credit issued on behalf of the Debtor to Desoto County, Mississippi. That claim is secured by the pledge of assets that are not property of the bankruptcy estate. To date, the County has not called on the letters of credit.

DESCRIPTION OF A 74.10 ACRE TRACT FOR SHORT FORK PLANNED DEVELOPMENT, PHASE 1 (UNRECORDED) LOCATED IN THE SOUTHWEST AND NORTHWEST QUARTER OF SECTION 15; TOWNSHIP 3 SOUTH; RANGE 7 WEST; DESOTO COUNTY, MISSISSIPPI.

Beginning at the southwest corner of Section 15; Township 3 South; Range 7 West; thence north along Getwell Road 1287.74 feet to a point in the centerline of said road and the true point of beginning of the following tract: thence northeast along a line on the north side of an existing ditch the following calls: south 83 degrees 17' 40" east 114.21 feet; north 89 degrees 33' 02" east 121.91 feet; north 62 degrees 33' 30" east 19.85 feet; north 27 degrees 27' 09" east 57.25 feet; north 68 degrees 47' 34" east 99.44 feet; north 54 degrees 47' 06" east 102.07 feet; north 35 degrees 34' 56" east 120.66 feet; north 57 degrees 50' 41" east 93.20 feet; north 52 degrees 25' 38" east 123.11 feet; north 78 degrees 17' 55" east 110.70 feet; south 62 degrees 48' 09" east 72.77 feet north 47 degrees 54' 16" east 198.76 feet; south 87 degrees 09' 19" east 35.92 feet; north 46 degrees 08' 39" east 49.33 feet; north 18 degrees 05' 23" east 58.70 feet; north 29 degrees 27' 26" east 303.98 feet; north 19 degrees 32' 19" east 229.46 feet; north 40 degrees 29' 10" east 95.84 feet; north 14 degrees 27' 13" east 458.24 feet; north 10 degrees 09' 22" east 485.66 feet; north 54 degrees 38' 09" east 220.10 feet; north 0 degrees 13' 39" west 316.39 feet to a point in the north property line of the Short Fork Farms LLC tract; thence south 89 degrees 46' 21" west 1899.75 feet along said north property line to a point in the centerline of Getwell Road; thence southward along the centerline of Getwell Road the following calls: south 27 degrees 58' 29" east 82.10 feet; south 24 degrees 19' 02" east 79.62 feet; south 14 degrees 47' 19" east 88.86 feet; south 3 degrees 51' 12" east 130.18 feet; south 1 degree 22' 36" west 295.99 feet; south 1 degrees 03' 23" west 355.99 feet; south 1 degree 02' 48" west 440.74 feet; south 0 degrees 09' 19" west 404.71 feet; south 2 degrees 33' 40" east 369.44 feet; south 2 degrees 58' 32" east 265.33 feet to the point of beginning and containing 76.44 acres, less and except the 40 foot right of way for Getwell containing 2.34 acres leaving a net acreage of 74.10 acres more or less. All bearing are GPS observations.

LESS AND EXCEPT THE FOLLOWING PROPERTIES RELEASED FROM THE DEED OF TRUST:

Lots 53, 57, 58, 81, 82, 83, 85, 86, 87, 55, 56, 59, 60, 79, 61, 62, 63, 80, 84, 88, 64, 77, 65, 78 & 90, Short Fork Creek Subdivision, Phase 1 as recorded in Plat Book 143, Pages 9-14 of the Land Deed Records of Desoto, County, Mississippi.

4. On December 13, 2023, Guaranty Bank filed its first Motion to Lift Stay and for Abandonment. (Dkt. #19) ("First Motion to Lift Stay") as it related to the Debtor's real property.

5. On January 3, 2024, Guaranty Bank filed its Motion for a Determination that Short Fork Development, LLC is a Single Asset Real Estate Debtor (Dkt. #51).

6. On April 11, 2024, Guaranty Bank and the Debtor reached an agreement as it related to the First Motion to Lift Stay, which is set forth in that certain Amended Agreed Order at Dkt. 112. (“First Motion to Lift Stay Order”). The First Motion to Lift Stay Order provided that the Debtor had until June 10, 2024, in which to either present a contract to sell substantially all its assets or begin paying monthly interest payments of \$65,115 beginning in June of 2024, the failing of which the automatic stay would terminate as to Guaranty Bank’s security interest in the real property described in the Stay Motion (“Agreed Order”).

7. On June 7, 2024, the Debtor filed its Motion to For Authority to Sell Real Property Outside the Ordinary Course of Business Free and Clear of Lines, Claims and Interests (“Motion to Sell”) in which it sought to sell substantially all of the assets of the Debtor, as contemplated by the Agreed Order (Dkt. # 123). The Motion Sell sought to approve a sale of substantially all the assets of the Debtor for \$1,500,000.

8. On July 26, 2024, the Court entered an agreed order on the Motion to Remove Debtor-in Possession (Dkt # 162) in which the Court, after notice and a hearing, removed the Debtor in Possession and replaced the Debtor in Possession with Robert A. Byrd, the Subchapter V Trustee.

9. On September 18, 2024, the Motion to Sell came on for hearing before the Court at which time Mr. Byrd announced that he was withdrawing the Motion to Sell. The withdrawal of the Motion to Sell resulted in there being no contract for the sale of the Debtor’s property.

10. The Debtor has been in bankruptcy November 30, 2023. It has not been able to sell any of its property. It has not generated any post-petition income. The Debtor cannot reorganize.

There is no equity in the Debtor's property for the benefit of the estate. Accordingly, the automatic stay should be lifted as to Guaranty Bank and the property described in this motion should be abandoned from the estate.

WHEREFORE, PREMISES CONSIDERED, Guaranty Bank respectfully requests that the Court lift the automatic stay as it relates to the real property described herein and order the property be abandoned from the estate. Guaranty Bank also requests general relief.

Respectfully submitted, this 26th day of September, 2024.

GUARANTY BANK & TRUST COMPANY

By: /s/ Jim F. Spencer, Jr.
One of Its attorneys

OF COUNSEL

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CERTIFICATE OF SERVICE

I, Jim F. Spencer, Jr., do hereby certify that I have caused to be served the above and for going pleading on all parties requesting notice by using the ECF filing system of the court:

United States Trustee – USTPRegion05.JA.ECF@usdoj.gov
Craig M. Geno – cmgeno@cmgenolaw.com

This 26th day of September, 2024.

/s/ Jim F. Spencer, Jr.
Jim F. Spencer, Jr.